

REMARKS/ARGUMENTS

Status of the Claims

Claims 1, 3-8, 10-15, 17-19 and 21-25 are currently pending in the application. Claims 1, 8, 15, 19 and 22-25 have been amended. No new matter has been added by the amendments. No claims have been added. No claims have been cancelled. Therefore, claims 1, 3-8, 10-15, 17-19 and 21-25 are present for examination. Claims 1, 8, 15, and 19 are independent claims. Applicant respectfully requests reconsideration of this application as amended.

Prior to entry of this amendment, the application included claims 1, 3-8, 10-15, 17-19 and 21-25. A final office action mailed March 14, 2008 ("Office Action"), objected to the abstract of the disclosure because it uses language which may be implied as applied in the prior office action. The Office Action objected to claims 22-25 because of informalities, specifically the word "Boolean" was not capitalized. 1, 3-8, 10-15, 17-19, and 21 have been rejected under 35 U.S.C. § 102(a) as being anticipated by Patent No. JP 2002-109419 issued to Kensuke et al. ("Kensuke").

Objection to the Specification

The Office Action objected to the Abstract of the disclosure because it uses language which may be implied as applied in the prior office action. Specifically, the first sentence includes the language "The present invention is directed...". The Abstract has been amended to correct the Abstract. No new matter has been included by this amendment to the Abstract. Accordingly, Applicants respectfully request that the objection to the Abstract be withdrawn.

Objections to the Claims

The Office Action objected to claims 22-25 because of informalities, specifically the word "Boolean" was not capitalized. Claims 22-25 have been amended to correct this

informality. Accordingly, Applicants respectfully request that the objection to claims 22-25 be withdrawn.

Claim Rejection Under 35 U.S.C. 102

The Office Action has rejected claims 1, 3-8, 10-15, 17-19 and 21-25 under 35 U.S.C. §102(a) as being anticipated by Kensuke. Applicants respectfully submit that the present claims are patentable over Kensuke.

Claimed embodiments of the present invention relate to conducting e-commerce when a financial institution computer system is not operating. Generally, financial institution computer systems (*i.e.*, account systems) rarely continue to operate on a 24 hour basis. Conversely, the settlement means (*e.g.*, checking balance, transferring money) in Kensuke is based on the assumption that the account system *is* in operation on a 24 hour basis. Thus, the feature of claim 1, and similarly claims 8, 15, and 19 is to switch "procedures" depending on whether the account system is in operation or not in operation. Specifically, claim 1 recites the operation of "detecting whether an account system of a financial institution is in operation, wherein the account system is where the end user has an account that is appointed for settlement of the settlement request" and that "if it is detected that the account system is in operation, executing a settlement procedure, including transferring an amount of money to pay from the end user's account to the seller's account" or "if it is detected the account system is not in operation, executing an automatic financing procedure."

Applicants respectfully submit that the phrase "an account system...is in operation" actually means that the account system (*i.e.*, the server computer system) is physically in operation (or is running), not simply determining whether or not the account can be settled, as in Kensuke. In other words, Kensuke discloses determining whether the purchase account can be settled, but fails to determine whether the account *computer* system is in operation, as in claim 1. Specifically, the Office Action relies on Kensuke at paragraph [0016] which discloses that "a consumer accesses an electronic store server via the Internet by assigning the URL of the server on his or her purchaser's computer and performs shopping." Accordingly, it is clear that nothing is being detected. Stated differently, the electronic store seems to be selected by the purchaser,

but it is only selected by a human without detecting whether the electronic stored computer system is actually in operation.

Thus, Kensuke fails to teach or suggest detecting whether an account system is in operation. Although Kensuke discloses determining whether the purchase account can or cannot be settled, it fails to teach or suggest detecting whether the account computer system is in operation, and only discloses the settlement procedure of claim 1. Nonetheless, the settlement procedure is a relatively common procedure (*e.g.*, checking balances, transferring money, etc.), whereas determining whether the account computer system is in operation is not.

Furthermore, the Office Action seems to be confusing the "settlement procedure" and the "automatic financing procedure", because the Office Action only asserts that Kensuke discloses the settlement procedure. As mentioned above, the feature of the present claims is to switch procedures depending on whether the account system is in operation or not. Thus, there are two different procedures, "the settlement procedure" and "the automatic financing procedure". The "the settlement procedure" is the "normal" procedure (*e.g.*, transferring an amount of money for settlement when the account system is in operation) whereas, the "the automatic financing procedure" is the procedure for which a loan is made when the account system is not in operation. Thus, "the settlement procedure" and "the automatic financing procedure" are the two different distinct procedures.

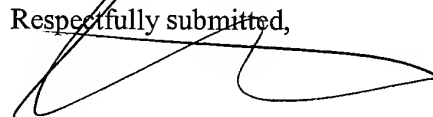
Thus, for at least these reasons, Applicants respectfully submit that Kensuke fails to teach or suggest the operations of claims 1, 8, 15, and 19. Accordingly, Applicants respectfully request that the rejection of claims 1, 8, 15, and 19 be withdrawn. Additionally, claims 3-7, 10-14, 17, 18, and 21-25 depend from independent claims 1, 8, 15, and 19, thus by virtue of their dependence on an allowable base claim, Applicants respectfully request that the rejection of claims 3-7, 10-14, 17, 18, and 21-25 also be withdrawn.

CONCLUSION

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance and an action to that end is respectfully requested.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 303-571-4000.

Respectfully submitted,



Charles W. Gray
Reg. No. 61,345

TOWNSEND and TOWNSEND and CREW LLP
Two Embarcadero Center, Eighth Floor
San Francisco, California 94111-3834
Tel: 303-571-4000
Fax: 415-576-0300
CWG:slb
61330899 v1